

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

STATE OF MISSOURI, ex rel.,
MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION.

Plaintiff(s),

VS.

EAGLE POINT SOFTWARE
CORPORATION,

Defendant(s).

Case No. 4:09CV00272 ERW


ORDER
REFERRING CASE TO ALTERNATIVE DISPUTE RESOLUTION

- (d) Designation of Lead Counsel: **Julie M. Numrich**, is designated as lead counsel and shall be responsible for working with the parties and the neutral to coordinate an agreeable date, time, and, if necessary, location for the initial ADR conference.
- (e) Responsibilities of Lead Counsel: Not later than **September 18, 2009**, lead counsel shall notify the clerk of the agreed choice of neutral selected by the parties and the date, time and location of the initial ADR Conference (see Designation of Neutral/ADR Conference Report form, <www.moed.uscourts.gov>, ADR, forms). Upon selection of the neutral, lead counsel shall send a copy of this order to the neutral.
- (f) General Rules Governing ADR Conference(s): Although the ADR process is defined in detail in the Local Rules, the following additional guidelines shall govern the process:
 - (1) Memoranda: Not later than ten (10) days prior to the initial ADR conference, each party will provide the neutral with a memorandum presenting a summary of disputed facts and a narrative discussion of its position relative to both liability and damages. These memoranda shall be treated as **Confidential Communications** and shall not be filed in the public record of the case nor provided to any other party or counsel.
 - (2) Disclosure of Participants and Duty to Attend: Not later than ten (10) days prior to the ADR Conference, each party will provide to the opposing party, and to the neutral, a list of all persons who will participate in the ADR Conference on behalf of the party making the disclosure. This list shall state the names of the individuals attending and their general job titles. Pursuant to Rule 16-6.02(B), all parties, counsel of record, and corporate representatives or claims professionals having authority to settle claims shall attend the mediation conference in person unless otherwise agreed to by the parties or approved by the court, and participate in good faith. For early neutral evaluation conferences, all counsel of record and their clients shall attend in person unless otherwise agreed to by the parties or approved by the court.

- (3) Authority of the Neutral: The neutral shall have authority to consult and conduct conferences and private caucuses with counsel, individual parties, corporate representatives and claims professionals, to suggest alternatives, analyze issues and positions, question perceptions, stimulate negotiations, and keep order.
- (4) Compliance with Deadlines: All deadlines must be complied with in a timely fashion and the appropriate forms filed with the Clerk of the District Court. If a deadline cannot be met, the designated lead counsel shall **file a motion requesting an extension of the deadline** prior to the expiration of that deadline. Noncompliance of any deadline set herein by this Court may result in the imposition of sanctions to the appropriate party or parties.
- (g) Compensation of the Neutral: The neutral shall receive reasonable compensation for services rendered pursuant to this order, which, unless otherwise agreed by counsel, shall be borne by the parties in accordance with Rule 6.03(C)(1). Compensation is payable to the neutral upon the conclusion of the ADR referral.

Nothing in this order alters the Case Management Order previously entered in this case. All deadlines set forth in that Case Management Order remain in full force and effect.

SO ORDERED this 13th Day of August, 2009.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE

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DESIGNATION OF NEUTRAL BY PARTIES AND ADR CONFERENCE REPORT

Pursuant to the Court's Order Referring Case to ADR, for **mediation**, dated August 13, 2009, the parties hereby designate by agreement the following individual from the Court's list of Certified Neutrals to serve as Neutral in the above-styled action:

Name of Neutral:

Firm Name and Address:

Telephone & FAX Number:

The attorneys of record in this case are:

Name of Lead Counsel:

Firm Name and Address:

Telephone & FAX Number:

Name of Other Counsel: _____

Firm Name and Address: _____

Telephone & FAX Number: _____

The completion deadline for this ADR referral is November 16, 2009.

The parties, in consultation with the assigned neutral, hereby designate by agreement the following date, time, and location of the initial ADR conference:

Date of Conference: _____

Time of Conference: _____ a/p.m.

Location of Conference (Check One):

~ Designated Space at the United States Courthouse, 111 So. 10th Street, St. Louis,
MO

~ Other Location: _____

All parties and the assigned neutral have been given at least fourteen (14) days notice of the above-dated conference. The neutral shall schedule any additional conference(s) in consultation with the parties.

We, the undersigned parties to this action, declare that this designation is both consensual and mutual.

Date

Signature of Plaintiff(s)

Signature of Defendant(s)